UNITED NATIONS

General Assembly

FORTY-SEVENTH SESSION

Official Records

SIXTH COMMITTEE
11th meeting
held on
Thursday, 8 October 1992
at 10 a.m.
New York

SUMMARY RECORD OF THE 11th MEETING

Chairman: Mr. TOMKA (Vice-Chairman) (Czechoslovakia)

later: Mr. ZARIF (Chairman) (Islamic Republic of Iran)

CONTENTS

AGENDA ITEM 127: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued)

AGENDA ITEM 126: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued)

This record is subject to correction.
Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, Room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

92-56893 5999S (E)

Distr. GENERAL
A/C.6/47/SR.11
13 October 1992

ORIGINAL: ENGLISH

In the absence of the Chairman, Mr. Tomka (Czechoslovakia), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

AGENDA ITEM 127: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued) (A/47/325 and Add.1 and 2)

1. The CHAIRMAN informed the Committee that the Secretary-General had just received a follow-up report from the Permanent Representative of Germany concerning an incident which had occurred in Cologne in 1989. The report would be circulated to all States in the usual manner.

2. Mr. BAKER (Israel) said that the item under discussion, in addition to dealing with a basic tenet of international law and practice, was for every representative on the Committee for more than a theoretical or academic exercise, for it directly affected all of them. Any act planned, arranged and carried out with the aim of harming, impeding, prejudicing or rendering useless the protection, security and safety of diplomatic or consular representatives was a stark violation not only of the basic norms of human behaviour, but also of international law and practice and of the resolutions drafted by the Committee.

3. Acts of violence against diplomatic missions, in addition to causing personal tragedy, undermined the entire concept of accepted diplomatic and consular practice and functioning in the interrelationship between States. The perpetrators of such acts, as well as those who supported, encouraged, assisted and armed the perpetrators, undermined international civilized coexistence and international law and custom, as well as each and every representative to the General Assembly.

4. He drew attention to the senseless acts of terrorism which his delegation had reported to the Secretary-General (A/47/325), which had claimed the lives of Israeli diplomats, their families and staff and non-Israelis. An incident, in March 1992 at the Israeli Embassy in Buenos Aires had resulted in the death of 28 people and had injured some 300 people in and around the Embassy. The senior Israeli diplomat murdered in that tragic incident had been David Ben-Rafael, who had served as Israel's representative to the Sixth Committee at the forty-fourth session of the General Assembly.

5. Terrorism could never be justified, and every State represented in the Committee, whatever its political or geographical orientation, was obliged by its very presence during the current discussion to do everything to prevent such violations. That included, in particular, States which were in a position to influence groups or elements that advocated, supported, encouraged, approved, incited and committed such acts of terrorism.

(Mr. Baker, Israel)

6. His delegation appreciated the assurances provided by Argentina in its note verbale on the Buenos Aires bombing (A/47/325/Add.2) that its Federal Police was investigating the incident and that the case was being handled by the Argentine Supreme Court of Justice. International law in general, and the resolutions concerning the protection of diplomats initiated by the Committee over the years obliged all States, not only Host States, to do everything to ensure the protection and integrity of diplomatic and consular missions everywhere. To that end, it was in the interest of every State to ensure full respect for the resolution to be drafted by the Committee. Such respect must include all types of cooperation at the international and regional levels to foil acts of terrorism, before more diplomats and innocent people paid with their lives.

7. The CHAIRMAN, speaking on behalf of the Committee, extended condolences to all those affected by the bombing of the Israeli Embassy in Buenos Aires in March 1992.

8. Mr. AKAY (Turkey) said that terrorism was a crime against humanity and disrupted the fabric and conduct of international relations. His country, which had been a target of international terrorism for a long time, had always condemned acts of terrorism wherever and by whomever committed. It was a party to the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and fully abided by their provisions and those of the relevant General Assembly resolutions. His country had taken all necessary measures to eliminate the problem, and acts of terrorism against a diplomatic or consular mission or its staff were more severely punished by the Turkish Penal Code than acts targeted elsewhere.

9. The fundamental conclusion which his delegation drew from the report of the Secretary-General (A/47/325 and Add.1 and 2) was that the protection provided by certain States to his country's missions and their representatives was inadequate in proportion to the magnitude of the threat they faced. His delegation urged those States to take stronger measures and enhance the level and effectiveness of their multinational cooperation. In order to combat international terrorism, all countries should refrain from selective treatment of cowardly acts which possibly derived from domestic policy considerations, harmonize their national legislation with the relevant international instruments and fulfil their obligations with determination.

10. Mr. ALI KAZI (Pakistan) said that his delegation was deeply concerned at the increasing incidents of violence against diplomatic and consular missions and representatives in different parts of the world, as highlighted in the Secretary-General's report. His delegation strongly condemned such acts of violence, as well as those against representatives of international intergovernmental organizations and their offices, whatever the motive. States must fulfil their international obligations to ensure the protection,

(Mr. Ali Kazi, Pakistan)

security and safety of diplomatic and consular missions and their representatives by strictly adhering to the relevant principles and rules of international law. Diplomatic and consular representatives could perform their functions only in an atmosphere of tranquillity and safety.

11. Under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, receiving States were obliged to take adequate measures to guarantee the protection, safety and security of diplomatic and consular missions and representatives, and sending States were obliged to use their missions in a manner compatible with their basic purposes. Diplomatic and consular officials were under the obligation to honour the laws and regulations of receiving States and to desist from acting in a manner which might constitute interference in the internal affairs of receiving States.

12. His Government was a party to the conventions he had mentioned and had enacted appropriate legislation to punish perpetrators of terrorist acts against diplomatic and consular agents. At the international level, the faithful application of existing instruments would make it unnecessary to adopt additional measures.

13. Mr. KOLOMA (Mozambique) said that his delegation attached great importance to the agenda item under consideration. It had been distressing to learn from the report of the Secretary-General that acts of violence against diplomatic and consular missions and representatives were continuing throughout the world. The very fact that 80 such incidents had been reported during the period from 1 October 1991 to 14 August 1992 spoke for itself. His delegation, believing that security and safety were an indispensable condition for the proper performance of diplomatic and consular functions, strongly condemned all violations of diplomatic immunity, of which his country, too, had recently been a victim.

14. On 17 March 1992, Sharfudine Mohamed Khan, a member of Parliament and Ambassador Plenipotentiary to the Republic of Zambia, had been found murdered in his residence in Lusaka. The Mozambican Government regretted that, through an oversight, it had failed to report the incident to the Secretary-General in accordance with the provisions of General Assembly resolution 42/154. His delegation expressed appreciation to the Government of Zambia for its cooperation in the handling of the case.

15. Such incidents presented a challenge to the international community, since their frequent occurrence was not due to gaps in the relevant international law or to the failure by States to accede to the legal instruments in the field. Most States were parties to a range of conventions on the issue, in particular, the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. Further international cooperation was essential, and should be complemented at the national level by

(Mr. Koloma, Mozambique)

measures to raise public awareness of the relevant legal instruments. In addition, States could also enact specific domestic legislation to enhance the protection, security and safety of diplomatic and consular missions and representatives.

16. Mrs. SINJELA (Zambia) said that she wished to assure the Committee and the representative of Mozambique that her Government was still investigating the circumstances that had led to the death of the Mozambican Ambassador in Lusaka and, as soon as the circumstances were determined and the investigation was completed, the Government of Mozambique would be informed accordingly.

17. The CHAIRMAN, speaking on behalf of the Committee, extended condolences to the family of Mr. Khan and to the Government of Mozambique.

18. Mr. D'ALMEIDA (Togo) said that his country had acceded to the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The alarming increase in the number of violent terrorist acts committed against diplomatic and consular representatives was amply documented in the Secretary-General's report. Such acts violated the rules of international law and seriously undermined the normal functioning of international relations.

19. The problem facing the international community lay not in the inadequacy of existing norms, but rather in the ignorance or disregard thereof. It was therefore imperative that States demonstrate the political will to meet their obligations under international law in that regard. In the light of the breakdown of ideological barriers and increasing interdependence among the world's nations, States should cooperate more fully within the framework of the United Nations to ensure the complete implementation of existing conventions and relevant norms of international law.

20. The successful application of those conventions and norms required that States adopt appropriate measures to prevent and punish the acts in question. Consideration should be given to conducting impartial international inquiries into certain cases that involved serious and deliberate violations of diplomatic law.

21. His delegation wished to underscore the usefulness of the reporting procedures established by the General Assembly whereby States informed the Secretary-General of all serious violations of the security of diplomatic and consular missions and representatives of which they had been the victims or which had occurred on their territory.

22. Mr. ORDZHONIKIDZE (Russian Federation) said that 12 years after the item under consideration had first been included in the agenda of the General Assembly, serious violations of the security of diplomatic and consular missions and representatives continued unabated, as was clearly demonstrated

(Mr. Ordzhonikidze, Russian Federation)

in the report of the Secretary-General. At the same time, the action taken by States to prevent such violations or alleviate their consequences was significant.

23. Careful consideration must be given to the further steps that could be taken to enhance the protection, security and safety of diplomatic missions, strengthen the regime of existing international agreements, and make them universal in nature, and promote the entry into force of new agreements. In cases where States themselves violated diplomatic norms and principles, the possibility of imposing sanctions against those States must be considered.

24. There was no justification for the senseless attacks on the Embassy of Israel in Buenos Aires and the Embassy of Venezuela in Tripoli. It was gratifying that the Governments concerned had taken all possible measures to resolve those incidents, including the payment of financial compensation. It was disturbing that a number of illegal actions had been carried out in connection with the adoption by the international community of decisions on the political settlement of particular conflicts. That problem required careful study.

25. His delegation welcomed the emergence of new independent States on the world arena. Those States must conduct themselves in a civilized manner and observe the principles and norms of international law, above all those relating to the protection of diplomats, in order to have authority at the international level. In that connection, he was obliged to note recent events in Afghanistan, when the evacuation from Kabul of the diplomatic staff of a number of foreign States had taken place under heavy gunfire, and had been possible only through the able and courageous actions of Russian military personnel. The military personnel had saved over 230 diplomats from various embassies, but there had been casualties.

26. One of the key factors in strengthening trust among States and expanding mutually advantageous cooperation was for the host country to ensure optimum conditions for the normal work of foreign missions and representatives at all times, even in critical situations.

27. Mr. Zarif (Islamic Republic of Iran) took the Chair.

28. Mr. NAJAFI (Islamic Republic of Iran) said that the non-violability of diplomatic and consular missions and representatives had been a generally accepted principle of international law for centuries. The obligations of States to ensure the security and safety of diplomatic and consular missions and representatives were embodied in the two Vienna Conventions on diplomatic and consular relations and the Convention on the Prevention and Punishment of Crime against Internationally Protected Persons, Including Diplomatic Agents.

(Mr. Najafi, Islamic Republic of Iran)

29. Despite the existence of those instruments, the number of violent acts against diplomatic and consular missions and personnel had sharply increased in recent years. Since the previous debate in the Committee on the item, a number of his country's diplomatic and consular missions had been attacked, in a planned and coordinated manner, by members of a terrorist organization, resulting in destruction of property and injuries to individuals; those incidents had been reported to the Secretary-General in accordance with General Assembly resolution 45/39, paragraph 9, and were reflected in document A/47/325.

30. In order to prevent the recurrence of such acts, it was essential for receiving States to take all necessary precautionary measures and to react promptly at the request of the missions concerned so as to lessen the extent of the damage caused. The creation of safety zones around diplomatic and consular missions would also serve as a deterrent.

31. His delegation believed that, so long as the security and safety of diplomatic and consular missions and representatives continued to be violated, the item should be retained on the General Assembly's agenda, and States should be urged to report such incidents to the Secretary-General.

32. Mrs. KOUPTCHINA (Belarus) said that the Republic of Belarus, as a party to the relevant international instruments, intended to continue to respect the obligations it had assumed in ensuring the protection, security and safety of diplomatic missions and representatives, and diplomatic privileges and immunities in general. That question acquired new significance for Belarus as an independent State. The number of Belarusian diplomatic and consular missions abroad was steadily growing, and also the number of missions of foreign States in Belarus. There were now 21 embassies of foreign States in Belarus, and on 8 September 1992, a UNDP office had been officially opened in Minsk. Provisions on diplomatic and consular missions of foreign States in the Republic of Belarus had been formulated, and would be adopted by her Government, specifying the international obligations that Belarus had assumed in the area of diplomatic and consular relations. Those obligations would become part of national legislation.

33. The Republic of Belarus firmly condemned the actions described in the report of the Secretary-General and endorsed the view put forward by the representative of the United Kingdom that, whatever might be thought about the policies of a particular State, there could be no justification for criminal attacks against that State's missions and representatives.

34. Belarus supported the view that the item should be included in the agenda of subsequent sessions of the General Assembly. As new States became Members of the United Nations, it was to be hoped that States which had not yet done so would become parties to the relevant international legal instruments and that States would take effective measures to strengthen the observance of their international obligations under diplomatic law.

35. Mr. MESCHERIAK (Ukraine) said that from time immemorial, international law had contained rules governing the status and activity of State representatives and missions in official inter-State relations with the aim of protecting their rights and legal interests in the process of international communication. Ukraine had always advocated strict observance of the principles and rules of diplomatic and consular law by all States, as a prerequisite for maintaining world peace and security as well as friendly relations among States. Protecting embassies and consulates, taking timely measures to suppress hostile actions against them and punishing the offenders not only constituted obligations under international law but also corresponded to States' own interests, as every sending State was at the same time a receiving State. Incidents such as those described in the report of the Secretary-General could undermine international stability and relations between sending and receiving States.

36. In order to enhance the protection, security and safety of diplomatic and consular missions and representatives, the implementation of the international legal instruments in force must be strengthened. Reporting procedures were of great significance as they attracted world attention to violations that occurred.

37. His delegation believed that the item should be included in the agenda of subsequent sessions of the General Assembly until the rules of international law were fully observed.

38. Ms. WILLSON (United States of America) said that the momentous changes that had reshaped the world since the Committee had last addressed the item under consideration gave special significance to the item. Decreasing global tensions had increased the role and importance of diplomacy, and the improved political atmosphere gave rise to the hope that incidents of violence against diplomats and diplomatic property would be effectively addressed by all States.

39. Regrettably, there had been numerous serious attacks on United States diplomatic personnel and missions in many parts of the world, as a result of which two people had been killed and seven injured, and United States diplomatic property had been seriously damaged or destroyed. Her delegation particularly condemned incidents where United States diplomatic personnel had been mistreated by officials of the receiving State. Abuse of any employee of a diplomatic establishment, including locally hired individuals singled out for persecution because of their affiliation with the mission, must be regarded as unacceptable if diplomacy or foreign aid was to continue. It was even more appalling that attacks of such a nature had been directed at international civil servants.

40. The United States continued to attach great importance to preserving the legal regime which facilitated the functioning of diplomats - a condition vital to communication among States. In response to General Assembly resolution 2819 (XXVI), the Act for Protection of Foreign Officials and Official Guests of the United States had been enacted in 1972; it established federal jurisdiction over specified violent crimes directed against officials

(Ms. Willson, United States)

and property of foreign Governments and international organizations. In order to implement the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Protection of Foreign Officials and Official Guests Act had been included in the United States Code; it made violence aginst a foreign official, violent attacks upon the premises of a foreign official or "attempts to commit any of the foregoing" a criminal offence. In addition, a new section of the United States Code had been added, entitled "Protection of Property of Foreign Governments and International Organizations".

41. As host to the United Nations, the United States Mission to the United Nations fully recognized its duties and responsibilities with respect to the protection of foreign diplomats in New York City. The United States had intensified its efforts to improve the protection of missions in New York City, to prevent violence and to apprehend the perpetrators of violent acts by establishing a Terrorism Task Force in May 1980. That task force had been extremely successful in reducing the incidence of terrorist acts in New York City.

42. Despite the wide ratification of treaties designed to protect diplomatic and consular missions and representatives, disturbing incidents continued to occur. Such incidents jeopardized the ability of the international community to conduct relations. States must commit themselves to implementing security measures adequately in order to deter acts of violence against diplomats and their territory and, where such acts occurred, to move immediately to prosecute or extradite the offenders. All must cooperate in bringing the perpetrators to justice.

43. The report of the Secretary-General showed an increase in reports received from States pursuant to General Assembly resolution 45/39. It was encouraging that many of the reports showed that there had been a prompt and effective response by police and local authorities, indicating that Governments took their obligation to safeguard diplomatic personnel and premises seriously. Continued implementation of the reporting regime would build a useful record over time.

44. The need for vigilance in implementing law in the area of diplomatic protection must be ongoing. Each incident had an impact on the individuals involved and had an incremental effect on diplomatic relations.

AGENDA ITEM 126: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued) (A/47/324; A/C.6/47/L.3)

Draft resolution A/C.6/47/L.3

45. Mr. RYDBERG (Sweden), introducing the draft resolution on behalf of its sponsors, among which, in addition to those listed, were Belarus, Belgium and Spain, said that it was based on General Assembly resolution 45/38. A new

(Mr. Rydberg, Sweden)

preambular paragraph 4 had been added, noting with satisfaction that the International Fact-Finding Commission pursuant to article 90 of Additional Protocol I had become operational. Paragraph 4 had been amended so as to call upon all States which were already parties to Protocol I, as well as those States not parties, on becoming parties to Protocol I, to consider making the declaration provided for under article 90 of that Protocol. It was to be hoped that the draft resolution could be adopted without a vote.

46. Draft resolution A/C.6/47/L.3 was adopted.

47. Ms. WILLSON (United States of America), explaining her delegation's position on the draft resolution just adopted, said that in a letter to the Government of Switzerland, which exercised depositary functions in respect of the Protocols Additional to the Geneva Convention of 1949, her Government had expressed its intentions with regard to ratification of the Protocols. Although Protocol I contained some appropriate provisions, it also had fundamental defects which could not be eliminated through either reservations or interpretative declarations. Provisions such as article 1, paragraph 4, and article 44 undermined the basis of humanitarian law, endangered civilian populations and recognized as combatants groups which were not authorized to carry out the obligations imposed by Governments. A number of provisions were unacceptable from the military point of view.

48. Her Government had, however, submitted Protocol II to the United States Senate for consideration, and expected to ratify it.

49. Mr. BAKER (Israel) said that although his delegation had joined the consensus on the draft resolution, its position remained the same as in the previous debate on the item in the Committee, as reflected in the summary records of the Committee.

The meeting rose at 11.35 a.m.